

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

ANTONIO CABALLERO,

Plaintiff,

v.

FUERZAS ARMADAS REVOLUCIONARIAS DE
COLOMBIA, ET AL.,

Defendants.

Civil Case No. 20-MC-00040-LJV

NOTICE BY THE UNITED STATES CONCERNING POTENTIAL PARTICIPATION

On March 4, 2022, the Court entered an order inviting the United States to submit a brief addressing three specific questions posed by the Court, as well as “any other issues raised by this litigation that the United States deems of interest.” Order, ECF No. 106, at 4. The Court has provided the United States until April 18, 2022 to inform it whether the United States intends to file a Statement of Interest.¹

The United States appreciates the Court’s invitation and has carefully considered it. The United States recently filed a Statement of Interest on closely related issues in the Southern District of New York. *See Fiona Havlish et al. v. Sheikh Usamah Bin-Muhammed Bin-Laden, a.k.a. Osama Bin-Laden et al*, No. 03 Civ. 9848 (GBD) (SN) (S.D.N.Y. Feb. 11, 2022), ECF No. 563 (attached hereto as Exhibit A) (the “*Havlish* Statement”). The *Havlish* Statement addresses several

¹ A submission by the United States in this matter would be pursuant to 28 U.S.C. § 517, which authorizes the Attorney General to send any officer of the Department of Justice “to attend to the interests of the United States in any suit pending in a court of the United States, or in a court of a State, or to attend to any other interests of the United States.”

of the issues raised in the Court's order inviting the United States' participation. *See* Ex. A., at 19-27. The Plaintiff in the present matter has filed a motion to stay pending resolution of the Southern District of New York proceedings, and the United States does not oppose such a motion. *See* Pl. Antonio Caballero's Mot. to Stay, ECF No. 111.

In light of its recent participation in the *Havlish* case, and the Plaintiff's motion to stay this case pending resolution of that case, the United States respectfully declines to file a Statement of Interest at this time, leaving open the possibility of a future submission. More specifically, the United States requests that this Court afford it thirty days from the date that the Court lifts the stay, if the stay motion is granted, or the date Court denies the stay motion, in order to file a notice informing the Court whether it will file a Statement of Interest in this matter. Counsel for the United State has conferred with counsel for the Plaintiff and Intervenors. Counsel for the Plaintiff do not object to this request. Counsel for the Intervenors do not object to this request, but reaffirm their clients' opposition to Plaintiff's motion to stay.

The United States appreciates the Court's patience and consideration in this matter.

Dated April 18, 2022

Respectfully submitted,

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Deputy Branch Director

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/s/ Joseph E. Borson
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